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TAGS: [KTIP](#) [ELAB](#) [KCRM](#) [KPAO](#) [KWMN](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#) [NP](#)
SUBJECT: NEPAL -- 2009 TIP REPORT: PRESS GUIDANCE AND
DEMARCHE

REF: A. STATE 59732
[1](#)B. STATE 005577

[1](#)1. This is an action cable; see paras 5 through 7 and 10.

[1](#)2. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

[1](#)3. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Nepal of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Nepal and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/precede the Secretary's release at 10:00 am EDT on June 16.

[1](#)4. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT

[1](#)5. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Nepal of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

[1](#)6. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing the framework in which the government's performance will be

judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

17. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

18. Begin Final Text of Nepal,s country narrative in the 2009 TIP Report:

NEPAL (Tier 2)

Nepal is a source country for men, women, and children trafficked for the purposes of commercial sexual exploitation and involuntary servitude. Children are trafficked within the country and to India and the Middle East for commercial sexual exploitation or forced marriage, as well as to India and within the country for involuntary servitude as domestic servants, circus entertainers, factory workers, or beggars. NGOs working on trafficking issues report an increase in both transnational and domestic trafficking during the reporting period, although a lack of reliable statistics makes the problem difficult to quantify. NGOs estimate that 10,000 to 15,000 Nepali women and girls are trafficked to India annually, while 7,500 children are trafficked domestically for commercial sexual exploitation. In many cases, relatives or acquaintances facilitated the trafficking of women and young girls into sexual exploitation. Women and girls are also trafficked to other Asian destinations, including Malaysia, Hong Kong, and South Korea for commercial sexual exploitation and forced labor.

The Nepalese Youth Opportunity Foundation estimated that, annually in Nepal, 20,000 to 25,000 girls become involuntary domestic workers. Bonded labor also remains a significant problem, affecting entire families forced into labor as land tillers or cattle herders. Over one million Nepali men and women work abroad in countries other than India, which is, by far, the most popular destination for Nepali workers; many of them migrate willingly to Malaysia, Israel, South Korea, the United States, Saudi Arabia, the UAE, Qatar, and other Gulf states with the help of labor brokers and manpower agencies to work as domestic servants, construction workers, or other low-skill laborers, and subsequently face conditions indicative of forced labor such as withholding of passports, restrictions on movement, non-payment of wages, threats, deprivation of food and sleep, and physical or sexual abuse. Many are deceived about their destination country. Many Nepali trafficking victims are subjected to debt bondage, which can in some cases be facilitated by fraud and high recruitment fees charged by unscrupulous agents in Nepal. Many traffickers provide parents of victims a salary advance in order to place the victims in a state of indebtedness, which may then be used to compel those victims to perform labor or a service in order to avoid threatened serious harm. In 2008, there was an increased number of reports of Nepali men who had been recruited for work in Gulf States, but were subsequently trafficked into forced labor in Iraq and Afghanistan by manpower agencies. Nepal,s role as a destination for foreign child sex tourists appears to be growing, as efforts to confront this problem in traditional Southeast Asian destinations have become more effective, according to local observers.

The Government of Nepal does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government continued modest efforts to prosecute traffickers and raise public awareness on trafficking during the reporting period, though its efforts to adequately punish labor trafficking could be improved. Additionally,

trafficking-related complicity by government officials remained a serious problem in Nepal.

Recommendations for Nepal: Significantly increase law enforcement efforts against all types of trafficking, including bonded labor, forced child labor, fraudulent labor recruitment for the purpose of forced labor, and sex trafficking; increase law enforcement efforts against government officials who are complicit in trafficking; institute a formal procedure to identify victims of trafficking and refer them to protection services to ensure that they are not punished for unlawful acts committed as a direct result of their being trafficked; improve protection services available for victims of all forms of trafficking; and put in place more effective tracking mechanisms for both sex and labor trafficking cases.

Prosecution

Nepal made limited progress in its anti-trafficking law enforcement efforts over the reporting period. Through its 2007 Trafficking in Persons and Transportation (Control) Act (TPTA), Nepali law prohibits all forms of trafficking and prescribes penalties ranging from 10 to 20 years, imprisonment, which are sufficiently stringent and commensurate with those prescribed for other grave crimes, such as rape. The 2007 Foreign Employment Act, through its Chapter 9, criminalizes the acts of an agency or individual sending workers abroad based on false promises or without the proper documentation, prescribing penalties of three to seven years, imprisonment for those convicted. Nepali law formally prohibits bonded labor, but the government does not enforce penalties for violators. According to the Office of the Attorney General (OAG), 14 individuals were convicted of trafficking offenses during the reporting period, six more than in the previous year, while 19 people were acquitted. The OAG did not provide information on the punishment imposed. In 2008, the government reported 400 cases filed under the Foreign Employment Act on behalf of workers for deceptive recruitment practices that may have led to situations of labor trafficking, including 137 cases against manpower agencies and 263 cases against individual labor recruiters, representing a significant increase from the previous reporting period. The government did not indicate, however, which of these cases involved acts of human trafficking. Of the 800 labor recruitment agencies licensed by the Department of Labor under the Act, 220 have had their licenses revoked for deceptive recruitment practices since late 2007. Trafficking-related complicity by government officials remained a serious problem in Nepal, with traffickers using ties to politicians, businesspersons, state officials, police, customs officials, and border police to facilitate trafficking. NGOs report that some police, border guards, and other officials routinely accept bribes to turn a blind eye to activities of traffickers. Many dance bars, &cabin restaurants,⁸ and massage parlors in Kathmandu that facilitate sex trafficking are reportedly co-owned by senior police and army officials. Additionally, given the large number of genuine Nepali passports containing false information that Indian officials have encountered in trafficking cases, it is clear that some Nepali officials are working with traffickers to provide them with these documents. Despite these serious concerns regarding the prominent role complicit government officials play in trafficking, the government did not prosecute any official complicit in trafficking during the reporting period. It is critical for the Government of Nepal to take serious and proactive efforts to investigate and punish this trafficking complicity.

Protection

Nepal made minimal efforts to protect victims of trafficking during the reporting period. Although the TPTA includes provisions for assistance to Nepali citizens trafficked abroad, these provisions have not been implemented due to lack of resources. Most of the facilities that can assist trafficking victims are run by NGOs. During the reporting

period, the government began providing financial support to NGO-run trafficking shelters in Kathmandu, Sindhualchowk, and Kanchanpur, and made plans to fund four additional shelters in 2009. Child victims were placed in foster care in government institutions. The government did not directly provide any medical or psychological services to trafficking victims, though the Ministry of Women, Children and Social Welfare provided limited legal counseling through the Nepal Women,s Commission. The government did not report the number of trafficking victims identified or assisted during the reporting period. The government encourages sex trafficking victims to participate in investigations against their traffickers, but lacks sufficient resources to ensure their personal safety. Additionally, victims who are material witnesses in court cases are not permitted to obtain employment or leave Nepal until the case has concluded; as such, many victims are reluctant to testify. NGOs complained that police and other authorities were not rigorous in their efforts to identify trafficking victims. Law enforcement officers do not employ formal procedures to identify victims of trafficking from among vulnerable groups, such as women arrested for prostitution, and did not ensure that victims of trafficking were not penalized for unlawful acts committed as a direct result of their being trafficked. As a result, some victims were arrested and fined for acts committed as a result of being trafficked. In September 2008, the police cracked down on entertainment establishments in Kathmandu, many of which were fronts for prostitution; hundreds of women and underage girls were arrested, though none were screened by police and identified as victims of trafficking, or given protection, and no manager, owner, or client of these establishments was arrested. It is of particular concern that Nepali police do not attempt to identify as trafficking victims children in prostitution in such establishments or adult women who are in prostitution involuntarily. The government does not provide victim protection services for men and women trafficked abroad for involuntary servitude, and there were a number of incidents in 2008 in which Nepali workers who may have been victims of labor trafficking were stranded overseas.

Prevention

Nepal sustained its efforts to prevent trafficking in persons throughout the reporting period. The Ministry of Women, Children, and Social Welfare increased its financial assistance to task forces in 26 high-risk districts to raise awareness and mobilize communities against trafficking, however it remains insufficient. In order to increase awareness of trafficking in the country, the government ran a public information campaign on the country,s National Anti-Trafficking Day. There were no measures taken by the government to reduce the demand for commercial sex acts or raise awareness about child sex tourism. To date, the government has done little to prevent the exploitation of minors in the growing domestic sex industry, or to conduct an awareness campaign to reduce the demand for commercial sex acts. Nepal has not ratified the 2000 UN TIP Protocol.

19. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the

United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and

systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion. "

-- The text of the TVPA and amendments can be found on website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or through the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1. Why was Nepal again given a ranking of Tier 2?

¶A. The Government of Nepal does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government continued modest efforts to prosecute traffickers and raise public awareness on trafficking during the reporting period, though its efforts to adequately punish labor trafficking could be improved. Additionally, trafficking-related complicity by government officials remained a serious problem in Nepal.

Q2. What progress did Nepal make in the past year?

¶A. According to the Office of the Attorney General, 14 individuals were convicted of trafficking offenses during the reporting period, six more than in the previous year, while 19 people were acquitted. The Ministry of Women, Children, and Social Welfare increased its financial assistance to task forces in 26 high-risk districts to raise awareness and mobilize communities against trafficking.

Q3. What can Nepal do to improve its fight against trafficking in persons?

¶A. To improve its anti-trafficking efforts, the Government of Nepal could: significantly increase law enforcement efforts against all types of trafficking, including bonded labor, forced child labor, fraudulent labor recruitment for the purpose of forced labor, and sex trafficking; increase law enforcement efforts against government officials who are complicit in trafficking; institute a formal procedure to identify victims of trafficking and refer them to protection services to ensure that they are not punished for unlawful acts committed as a direct result of their being trafficked; improve protection services available for victims of all forms of trafficking; and put in place more effective tracking mechanisms for both sex and labor trafficking cases.

¶12. The Department appreciates posts, assistance with the preceding action requests.

CLINTON